

BILL NO. OF 2012

A LOCAL LAW to amend the Kensington Code Chapter 6 entitled “Architectural Review Board.”

BE IT ENACTED by the Kensington Board of Trustees as follows:

Section One. Kensington Code Chapter 6 is repealed in its entirety and a new Chapter 6 entitled “Architectural Review Board” is added to read as follows:

§ 6-1 ARCHITECTURAL REVIEW BOARD § 6-1

Chapter 6

ARCHITECTURAL REVIEW BOARD

§ 6-1. Creation; membership; terms.

§ 6-2. Board procedures.

§ 6-3. Referral of permit applications; action on review.

§ 6-4. Content of application.

§ 6-5. Standards for actions.

§ 6-6. Guidelines.

§ 6-7. Review by Board of Trustees.

§ 6-8. Action by Building Inspector.

§ 6-9. Building Construction Administration.

§ 6-10. Further review.

§ 6-11. Fees.

[HISTORY: Adopted by the Board of Trustees of the Village of Kensington 11-14-1984 by L.L. No. 8-1984. Amendments noted where applicable.)

GENERAL REFERENCES

Building Construction --See Cb. 64.

§ 6-1. Creation; membership; terms.

A. There is hereby created an Architectural Review Board, which shall consist of five residents of the village and an additional resident to be designated an alternate member

appointed by the Mayor with the consent of the Board of Trustees. The Mayor shall designate which member of the Architectural Review Board shall be the Chairperson of the Board subject to the approval of the Board of Trustees, and the person so designated shall serve as Chairperson until the end of the official year in which such appointment is made. The terms of the members of the Board shall be for one official year. Vacancies occurring for whatever reason other than expiration of term shall be filled for the balance of the unexpired term by a resident of the village appointed by the Mayor with the consent of the Board of Trustees.

- B. All members of the Board shall be persons deemed specially qualified by reason of training, experience or civic interest and by reason of sound judgment to judge the effects of a proposed building or exterior alteration on the nature and character of the community and of the immediate neighborhood, as provided in this chapter.
- C. Findings and purpose. It is the purpose of this chapter to preserve and promote the traditional character and appearance and conserve the property values of the village, the attractiveness of whose residential areas is the mainstay of the community, by providing procedures for a design review of buildings and structures henceforth erected, reconstructed or altered in the village, and thereby to encourage good qualities of exterior building design and materials and good appearances and to relate such design, materials and appearances to existing buildings and structures on the site and to other buildings and structures within the village deemed to exhibit good qualities of exterior building design and material, and to prevent such design and appearances as are inappropriate and inconsistent with the traditional character of the village by reason of poor quality of exterior design or materials, monotonous similarity or visual discord in relation to existing buildings or structures on the site or other sites within the village deemed to exhibit good qualities of exterior building design and material. [Added 12-17-1997 by L.L. No. 6-1997]

§ 6-2. Board procedures.

- A. Meetings of the Architectural Review Board shall be held at the call of the Chairperson and any two members and shall be open to the public except where otherwise permitted by the Open Meetings Law. The Board may conduct a public hearing on any matter before it when it deems the same to be in the public interest. If a public hearing is scheduled at least one week prior thereto, public notice shall be given at least seventy-two hours before such meeting and, if a public hearing is scheduled less than one week prior thereto, to the extent practicable, public notice shall be given at a reasonable time prior thereto. A majority of the Board shall constitute a quorum for the transaction of business. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall also maintain records of its examinations and other official actions. Such records shall be kept in the Village Office. The Board may, from time to time, adopt and amend rules of procedure not inconsistent with law or the provisions of this chapter.

B. The Board shall meet within 45 days after the referral to the Board of an application for a permit, as required in § 6.3 (C).

- (1) All necessary materials as described in § 6.4 must be filed with the Village Clerk 30 days prior to the next regularly scheduled meeting of the Board.
- (2) At least 10 days prior to such meeting, the applicant for such permit shall give written notice of such meeting to all owners of property within 200 feet of the property which is the subject of the application, by certified mail, return receipt requested, as indicated on the most recent assessment roll of the Village. Proof of mailing of such notice shall be filed with the Village Clerk no later than five days prior to such meeting, and returned certified mail receipts shall be filed with the Village Clerk no later than one day before the meeting.

C. The Village Clerk shall post notice of all meetings of the Board in at least three conspicuous locations in the Village including a public bulletin board maintained at the Village Hall.

§ 6-3. Summary Review, referral of permit applications; action on review.

A. Within 14 business days or as soon as practicable after an application for a permit involving the exterior appearance of a new or existing building, or a group of such buildings, or of the appearance or physical shape of the land is made to the Building Inspector, upon the Building Inspector's approval of the application, the Building Inspector shall refer said application to the Village Clerk, who shall promptly transmit the same to the Chairperson or, in the absence of the Chairperson, to another duly appointed alternate member of the Board or, alternatively, the village Building Commissioner. The Chairperson or alternate shall summarily review the application and determine within a reasonable period of time whether further review by the Board is required or appropriate and if such further review is required, whether such review shall be either informal or in compliance with all of the requirements and standards set forth in this chapter. [Amended 5-19-2004 by L.L. No. 3-2004]

B.

Any determination by the Chairperson or alternate not to conduct further review shall be communicated to the building department and building inspector who shall then inform the applicant of such determination.

C. In the sole discretion of the Chairperson or alternate, an application may be referred for further informal review by the Board. Further informal review by the Board shall entitle an applicant to appear at the next regularly scheduled meeting of the Board without complying with all of the requirements of Section 6.2(b)(2) or 6.4 provided that any additional required materials (as determined by the Chairperson or alternate) are filed

with the Village Clerk at least 10 days prior to that meeting. Upon completion of such further informal review, the Board may recommend approval or disapproval of any matter referred to it by a concurring vote of a majority of the entire Board, or in the Board's sole discretion, may require additional materials in order to complete their review and render an opinion.

- D. Where any further review by the Board other than informal is to be conducted, such review shall be in accordance with the requirements and standards set forth in this chapter. Upon completion of such further review, the Board may recommend approval or disapproval of any matter referred to it by a concurring vote of a majority of the entire Board.
- E. All spaces for the parking of vehicles must be designated on a driveway plan. No parking spaces may be created without a review of the Architectural Review Board, approval by the Police Department and final approval of the Board of Trustees.

§ 6-4. Content of application. [Amended 6-17-1987 by L.L. No. 3-1987; 9-28-1988 by L.L. No. 5-1988; 12-17-1997 by L.L. No. 6-1997]

In addition to any other plans, applications and specifications required by the Building Inspector, applications must be accompanied by the following:

- A. Eight (8) copies of the plans, signed and sealed by an architect or engineer, showing elevations of all proposed new buildings and structures and all affected elevations in the case of additions or alterations to existing buildings and structures. The elevations shall show the height and width of the proposed new building or structure as well as the height of the roof at the roof's highest point and the proposed side yard clearances with all air-conditioner units identified as well as the distance of all adjacent houses to the applicant's property line.
 - (1) For all proposed new buildings and structures, the plans must identify the architectural style of the proposed new buildings and structures and:
 - (a) for each significant feature of the proposed new building or structure, provide exemplars from an authoritative source of the features in use in a building of the identified style; and
 - (b) for each color to be used on the proposed new building or structure, provide exemplars from an authoritative source of the color pallet in use in a building of the identified style.

- (2) For all alterations of existing buildings and structures, the plans must identify the architectural style of the existing buildings and structures and the architectural style of the building or structure when the proposed alterations are completed and:
 - (a) for each significant feature of the building or structure when the proposed alterations are completed, provide exemplars from an authoritative source of the features in use in a building of the identified style. When the building does not have a distinct architectural style, exemplars will be provided at the Board's discretion; and
 - (b) for each color to be used on the proposed new building or structure, provide exemplars from an authoritative source of the color palette in use in a building of the identified style.
- B. Color photographs of the two houses to each side and all houses within a 150 foot radius, including the front and rear.
- C. A survey and plot plan prepared by a New York State licensed surveyor depicting the following: [Amended 5-19-2004 by L.L. No. 3-2004]
 - (1) A current survey accurately depicting conditions as of the date of the submission of the application.
 - (2) A plot plan showing the following:
 - (a) Metes and bounds.
 - (b) All setbacks and street frontage.

1 Editor's Note: Former Subsection D. Direct application for review, added 1-2001/1988 by L.L. No. 2-1988, which immediately followed, was repealed 5-19-2004 by L.L. No. 3-2004. 605 10-25-2004

 - (c) Curb cuts and driveway location in relation to all relevant street intersections.
 - (d) Location of proposed underground utilities.
 - (e) Front setbacks of the houses within 200 feet of the proposed dwelling.
 - (f) Existing elevations.
- D. Topographical map prepared by a New York State licensed surveyor depicting proposed grading with finished elevations, mean ground level, mean street curb level, and first-floor elevations as well as the current topography of the site.
- E. Landscape plan. Where the applicant proposes new construction or where the building plans can reasonably be expected to result in new or additional landscaping on the

property or where the application is for new construction, a separate landscaping application must be filed concurrently with the building permit application and shall include plans for all new or additional landscaping, showing existing trees, trees to be removed ~ and all new plantings of trees and shrubs (including size and location), all grass and ground cover and all paved areas. The landscaping plan shall also show:
[Amended 5-19-2004 by L.L. No. 3-2004]

- (1) Existing and proposed contours at two-foot intervals;
- (2) All existing trees with a trunk diameter of four inches or more at a point three feet above the ground level and an indication of whether such trees are intended to remain or to be removed; and
- (3) Other topographical features.

F. A two-point perspective color rendering, to scale, of the proposed dwelling and the houses on either side. The rendering shall be from a two point perspective and shall identify the colors and types of materials proposed, and, where applicable, shall include detailed drawings or other examples in print of the plan's significant features, including, but not limited to windows, front doors, chimneys, pediments, dormers, cornices, quoins, railings, columns, and arches.

G. Floor area ratio calculations.

H. Fee and application form.

I. Subsequent to the initial application, and when advised to do so by the Board, where the applicant proposes to construct a new dwelling or where a proposed enlargement would result in the increase of the gross floor area of an existing dwelling by 40% or more, the applicant shall be required to prepare a scale model and artist's rendering of the proposed dwelling. The scale model shall include grades at two foot intervals and shall depict the dwellings on all three sides. The artist's rendering shall depict the dwellings on either side of the dwelling that is the subject of the application.

J. The Building Inspector or Board shall be entitled to require the applicant to provide any additional plans deemed necessary for a proper review of the application.

K. All planned parking areas for vehicles. No parking areas are permitted which are not adjacent to an approved curb cut and with direct access to the driveway. [Added 5.19.2004 by L.L. No. 3.2004]

§ 6-5. Standards for actions. [Amended 6-17-1987 by L.L.

No. 3.1987; 12-17-1997 by L.L. No. 6.1997]

- A. The Board shall take into account that the Village is a community of traditional architectural styled homes when it considers the following standards for the recommendation for approval of an application: [Amended 5.19.2004 by L.L. No. 3-2004]
- (1) The natural features of the site and surrounding areas;
 - (2) All modifications to the site;
 - (3) The position of the total living structure, and accessory structures on the site;
 - (4) Major changes of all structures to adjacent properties;
 - (5) Changes to curb cut position and size, and driveway position and size;
 - (6) Proportion of window to wall on front and side elevations consistent with house style;
 - (7) The setting of the house on the lot;
 - (8) The exterior design and appearance of existing structures;
 - (9) The character of the site and area.
 - (10) The traditional character and appearance of other structures in the village.
- B. The Board may recommend approval of an application upon finding that the building or structure for which the permit is requested, if erected or altered in accordance with the submitted plan:
- (1) Would be in harmony with the purposes of this chapter as enumerated in Subsection A of this section;
 - (2) Would not be visually offensive or inappropriate by reason of incompatible color, material, poor quality of exterior design, materials, or appearance or visual or architectural incompatibility with traditional architectural styles in relation to the site or surrounding properties in the immediate vicinity;
 - (3) Would not mar or adversely affect the appearance of the area;
 - (4) Would not be detrimental to the character of the neighborhood; and
 - (5) Would not be inconsistent with the existing overall style of the dwelling.

C. In recommending the approval of an application, the Board may impose appropriate conditions and safeguards designed to prevent or minimize harmful effects of the proposed construction or alteration.

D. Disapproval of application.

(1) The Board may recommend disapproval of any application for a permit, provided that it finds and states that the building or structure for which the permit is requested would, if erected or altered as proposed, cause one or more of the harmful effects enumerated in Subsection B of this section.

(2) Prior to recommending disapproval of any application, the Board shall afford the applicant an opportunity to meet with it and discuss suggestions for changes in the application. The applicant will thereafter have a period of up to 60 days to submit a written request with the revised application in conformity with the Board's suggested changes. Failure of the applicant to act within the 60 days will result in the cancellation of the application.

§ 6-6. Guidelines. [Added 12-17-1997 by L.L. No. 6-199~]

A. Purpose of these guidelines. These guidelines are intended to facilitate the design review process by encouraging certain design characteristics which are deemed appropriate in achieving the standards set forth in § 6-5B. In rendering its judgments, the Board remains at liberty to depart from and may invoke standards which are not encompassed within these guidelines.

B. Massing, roofs and walls

(1) Large undifferentiated volumes and/or wall surfaces must be avoided.

(2) Abrupt transitions between volumes and wall surfaces of a building must be avoided if they are not in keeping with the style of the dwelling.

(3) Single-family dwellings shall be designed with pitched roofs.

(4) Pitched roofs should consist of at least two sloped surfaces, except when adjoining higher vertical surfaces (i.e. shed roofs). Neither sloped surface should be less than 1/3 the length of the longer side.

(5) Pitched roofs shall have a minimum pitch of 1:4, and may be greater, except at dormers.

(6) There shall be no shed roofs on main dwellings.

(7) Siding on a dwelling shall be horizontal.

(8) House numbers shall be compatible with style of dwelling.

(9) The location of the dwelling on the premises shall be consistent with the dwellings on either side of it.

(10) Excessive volumes of glass to wall must be avoided. [Added 5-19-2004 by L.L. No. 3-2004]

C. Materials.

(1) Designs should rely on a limited palette of materials for the main body of the building appropriate to the style of architecture identified such as brick, stone, stucco, wood, shingle, or a suitable combination thereof. These surfaces should be relieved by their trim, trim color and decorative elements, including shutters, molding or other decorative ornamentation.

(2) The Board strongly encourages the use of durable and enduring materials with proven performance. In particular, cladding and roof systems will be reviewed for durability and the quality of their technical design as well as their appearance.

(3) The Board strongly discourages the use of inferior materials such as asphalt shingle, aluminum or fiberglass siding, artificial stucco, faux wood, brick or stone veneers.

(4) The Board strongly discourages the use of inferior windows, particularly those utilizing vinyl window frames or which have excessively large frames in comparison to the surface glass area.

D. Landscaping. The use of evergreen plant material (e.g. pine, cedar, hemlock, holly, laurel, yew, pachysandra, myrtle, etc.) is encouraged to ensure that any planned visual buffers function effectively year-round. Artificial plantings of any type are not permitted. Visual buffers including fences shall separate a house from neighbors. Applicants shall use landscaping to screen all foundation walls and air-conditioner units.

E. Replacement of Trees. Applicants shall replace all trees (**including Village trees that are not located on the Applicant's property**) that are removed as a result of construction and shall identify on the landscape plan and on a chart thereon the number of trees that are being removed and replaced. **The Board may require that trees be planted on Village owned property.**

F. Landscape Bond. The applicant shall post a landscape bond in the amount of \$25,000 to be issued before construction begins and released a year following the planting of all plant material depicted on the landscape plan. The applicant shall replace all plant material that did not survive within the first year of planting as determined by the Building Inspector. The applicant shall thereafter be required to maintain all trees and other plant material approved on the landscape plan in perpetuity.

G. Garages. If located in a front elevation of a residential building. The door or doors of a garage shall not have a total horizontal dimension which exceeds 50% of the horizontal dimension of the front elevation of the residential building. No garage shall extend beyond the front wall of the dwelling at the discretion of the Board.

H. Mechanical equipment. Exterior mechanical equipment should be indicated on all drawings and should be properly shielded from view of all streets and adjacent properties.

I. Color. The Board encourages the appropriate use of color, single or in combination, which is consistent with the architectural style of the house, visual character of the existing buildings and landscape of the Village. Strident color schemes or colors which compete with those of the natural landscape are strongly discouraged.

J. Style.

(1) In general, adjacent structures shall not be identical or mirror images of one another.

(2) The massing and style chosen for buildings should be suitable and appropriate within the context of adjacent existing buildings, if deemed appropriate to do so by the Board.

(3) With any submitted design, the massing, size and shape of all openings, decorative trim and ornamentation should be stylistically consistent.

(4) A garage, whether attached or detached, shall be consistent with the style, color and materials of the dwelling.

K. Mounted Fixtures on Roofs. Roof mounted lighting or electrical fixtures should not be visible from the street when standing directly in front of a house unless the fixture does not have a negative visual impact as determined by the Board. If approved by the Board, said fixture shall require a permit before it is mounted. In no instance shall solar panel, dish antenna or skylight be visible from the street when standing directly in front of a house.

§ 6-7. Review by Board of Trustees. [Amended 9-18-1985 by L.L. No. 5-1985]

All recommendations or other actions by the Board shall be reviewed by the Board of Trustees, who may affirm, reverse or modify such recommendations or actions after fully considering the expressed rationale for any recommendation or actions of the Board.

§ 6-8. Action by Building Inspector.

The Building Inspector shall not issue any permit unless the application has been approved by the Board of Trustees. In the event the Board of Trustees approves an application on conditions, the Building Inspector shall not issue any permit until all changes in the plans have been made to conform to such conditions and unless all such conditions have been met or complied with. All building permits must be issued within 9 months of Board of Trustees approval; otherwise the Architectural Review Board approval is void.

§ 6-9. Building Construction Administration.

- A. For all new construction and additions or alterations exceeding 40% of the existing floor area, building construction shall be administered by a design professional who will periodically inspect the construction of such building. The permit application and plans shall be signed by the design professional and shall have his or her professional seal affixed.

The design professional shall provide to the Building Inspector and Chairperson of the Board a copy of the contract authorizing said construction administration. The design professional shall provide a monthly inspection report to the Building Inspector documenting the following:

- i) the progress of construction including conformance with New York State Building Code requirements and Village zoning laws;
 - ii) the progress of design conformance including materials and architectural elements of the building as approved by the Board; and
 - iii) notice of any variation from drawings approved by the Board and the Building Inspector and an explanation as to whether such variation has been approved by the design professional.
- B. In the event that such design professional shall, for any reason, discontinue his or her administration of the construction of the building at any time prior to the completion, he or she shall notify the Building Inspector of such fact, in writing, immediately, and thereupon the building permit issued for such construction shall be suspended, and no further work shall be done thereafter until an affidavit shall be filed with the Building Inspector certifying that administration of the construction has been resumed by another or the same design professional.
- C. No certificate of occupancy will be issued unless the design professional administering the construction files a final certificate with the Building Inspector, establishing and certifying that the

building was, in fact, erected and designed in conformity with the plans filed with and approved by the Building Inspector and the Board.

§ 6-10. Further review.

Any person aggrieved by the action of the Board of Trustees in disapproving a permit application or in approving an application on conditions, or of the Building Inspector in denying a permit because of such disapproval by the Board of Trustees, may, within 30 days after the determination of the Board of Trustees, institute a proceeding to review in the manner provided by Article 78 of the Civil Practice Law and Rules.

§ 6-11. Fees. [Amended 3-21-1990 by L.L. No. 3-1990]

In addition to any other fees provided or required by law, the applicant shall pay to the Village Clerk a fee established by resolution of the Board of Trustees for any application for a permit which requires review by the Architectural Review Board. Such fee shall be paid before any meeting of the Board to consider review of such application.

Section Two. If any clause, sentence, paragraph, section, article or part of this local law shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate any other part of this local law, or the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof directly involved in the controversy in which judgment shall have been rendered.

Section Three. This local law shall take effect immediately upon filing with the Secretary of State.